IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA MACON DIVISION

KRANSTON DESHAWN MOULTRIE,

Petitioner,

v. : Case No. 5:04-CR-35-HL

Case No. 5:07-CV-90017-HL

UNITED STATES OF AMERICA,

:

Respondent.

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ORDER

In an order entered on December 10, 2008, the Court accepted the recommendation of the Magistrate Judge that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255 be denied. (Doc. 90). Petitioner Kranston Deshawn Moultrie has now filed a Request for a Certificate of Appealability pursuant to 28 U.S.C. § 2253(c). (Doc. 92-3). As discussed below, Petitioner's motion is denied.

In a proceeding under 28 U.S.C. § 2255, the final order is subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held. The order cannot be reviewed, however, unless the district judge issues a Certificate of Appealability. 28 U.S.C. § 2253(c)(1)(B). In order to obtain a Certificate of Appealability, the petitioner must make a "substantial showing of the denial of a

constitutional right." Id. at (c)(2). This standard is satisfied by a demonstration that

"jurists of reason could disagree with the district court's resolution of his constitutional

claims or that jurists could conclude the issues presented are adequate to deserve

encouragement to proceed further." Miller-El v. Cockrell, 537 U.S. 322, 327, 123 S.Ct.

1029 (2003).

The Court has carefully considered Petitioner's motion. For the reasons stated

in the Magistrate Judge's recommendation and this Court's order accepting the same,

the Court finds that Petitioner has not made a substantial showing of the denial of a

constitutional right so as to warrant the issuance of a Certificate of Appealability.

Nothing offered by Petitioner persuades the Court that the issues presented by his case

merit further debate. Accordingly, Petitioner's Request for a Certificate of Appealability

(Doc. 92-3) is **DENIED**.

SO ORDERED, this the 2nd day of June, 2009.

s/ Hugh Lawson

HUGH LAWSON, SENIOR JUDGE

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